A

CITY OF TORONTO

DEPARTMENT OF THE

CITY CLERK

CLAUSE EMBODIED IN REPORT NO. 40 OF THE EXECUTIVE COMMITTEE WHICH WAS AMENDED AND ADOPTED BY CITY COUNCIL AT ITS MEETING HELD ON DECEMBER 1 AND 5, 1986.

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TORONTO ISLAND COMMUNITY - PROPOSALS FOR DRAFT LEGISLATION

The Executive Committee submits the matter of the Toronto Island Community to City Council, without recommendation, and advises that it has requested the City Solicitor to report directly to City Council on December 1, 1986, on a recommendation that would ensure that the Toronto Island tenants who have not paid rent to the Island property owners be responsible for some of the proposed capitalized rent payment of $25,000.

The Executive Committee also advises that the following motion by Alderman O'Donohue was voted on and lost:

1. *That the Provincial Government be requested to amend the Bill to include the provision that three independent appraisals be obtained to establish a proper rent based on a twenty-year lease with a five-year renewal option.*
2. *That the existing owners, present tenants, and previous owners have first right of refusal; and*
3. *That the Commissioner of City Property report on the question of appraisals to the next regular meeting of City Council.*

The Executive Committee further advises that the following motions were placed but not voted on:

Moved by Mayor Eggleton:

1. *That the proposals outlined in Appendix 1-2 of the report (November 26, 1986) from the Commissioner of City Property be adopted;*
2. *That the rent for the 99-year leases on Ward's and Algonquin Islands be on average a one-time prepaid capitalized rent payment of $25,000 plus a proportionate share of any costs incurred or to be incurred by the City respecting the obtaining by the City of the residential lands and leasing thereof to the Islanders such costs to include but not be limited to:*

   i) any ferry deficit costs and/or ferry service costs to the City to service the Ward's and Algonquin Island residential communities.

   ii) any interest that may be payable by the City to Metropolitan Toronto on rent arrears under section 215a of the Municipality of Metropolitan Toronto Act to December 18, 1986.

   iii) any rent and/or interest that may be payable by the City to Metropolitan Toronto after December 18, 1986, to the date the new legislation is in force.

   The City must have all such costs recovered.

3. *That the proposed legislation contain anti-speculation and anti-windfall profits provisions and that the City Solicitor, in consultation with the Commissioner of City Property, report further on various anti-speculation and anti-windfall profit options that may be placed in the proposed legislation including, but not limited to, the ones set out in: Recommendation (c) of the report (November 26, 1986) from the Commissioner of City Property, Alderman Martin's report of November 13, 1986, and the Islanders' own proposal for the legislation.*

4. *That the City Solicitor, in consultation with the Commissioner of City Property and other officials, report further on the form of the legislation.*

Moved by Alderman Gee that Part (2) of Mayor Eggleton's motion be amended by deleting the words and figure "of $25,000 plus" and inserting in lieu thereof the words "which includes".

The following persons addressed the Committee:

Mr. Dale Perkins, 2 - 2nd Street, Ward's Island
Mr. David Harris of the Toronto Island Residents' Association, 23 - 6th Street
Mr. Bruce Weber, 3 Oneida Avenue, Algonquin Island
Mrs. Luise Schoenborn, 13 Ojibway, Algonquin Island
Ms. Diana Rowland, 12 Ojibway Avenue, Algonquin Island
Ms. Mary Millen, 14 - 3rd Street, Ward's Island
Mr. Bruce Hustler of the Toronto Island Homeowners' Association
Mr. and Mrs. L. Taylor, Toronto Island property owners
Alderman Martin
Councillor Layton

The Executive Committee submits the report (November 26, 1986) from the Commissioner of City Property:

Origin: Commissioner of City Property (c33exec86159:0006

Comments:

1. Background:

On April 30, 1984, City Council adopted a resolution in support of the Toronto Islands Community with the following principles:

1. Restate its commitment in support of the Toronto Islands Community;
2. Transfer the residential portion of Ward's Island and Algonquin Island to the City of Toronto;
3. Restore rights of ownership to Islanders.

Copy of the resolution is attached (Appendix 1-1).

Numerous meetings have been held between the Province, City and Toronto Islands Residents' Association to discuss the proposed changes to section 215a, Municipality of Metropolitan Toronto Act (Bill 191), requested by TIRA.

Most of the proposed changes requested by TIRA have been resolved with the exception of the method of computing rent and rental arrears as outlined in this report. Separate discussions have also been held with the Toronto Islands Homeowners' Association.

2. Proposals for Draft Legislation:

Appendix 1-2 contains a comparative summary of the present legislation and the proposed legislation.

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A. Recommendations embodied in Clause 1 of Report No. 40 of the City of Toronto Executive Committee pertaining to "Toronto Island Community - Proposals for Draft Legislation", amended and adopted by City Council at its meeting held on December 1 and 5, 1986.

B. Report (April 21, 1987) from the Commissioner of City Property - Toronto Islands - Supplementary Appraisal Reports.

C. Report (April 23, 1987) from the City Solicitor - Toronto Islands - without prejudice interim payments toward final rental solution.

D. Report (April 16, 1987) from the Commissioner of City Property - Toronto Islands - Renewal of lease between the City and Metro.

E. Report (April 16, 1987) from the Commissioner of City Property - Toronto Islands - Interest owing to Metro for period December 18, 1981, to December 17, 1986.

F. Report (April 16, 1987) from the Commissioner of City Property - Toronto Islands - Rental Arrears owing prior to December 18, 1981.

G. Report (April 16, 1987) from the Commissioner of City Property - Toronto Islands - Rent for 2 Clubhouse Buildings.

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TORONTO

ISLANDS

METROPOLITAN
TORONTO
LIBRARY
Municipal Reference

April, 1987

As indicated earlier, these proposals have been developed after discussions with the Province, TIRA and TIHA.

All issues have been extensively canvassed but full agreement has not been reached. Section "A" contains items that have been resolved between the said parties. These represent a large number of the issues.

Section B outlines the unresolved issues, namely, Rent, Rental Arrears and Ferry Costs.

A. Resolved Issues:

Land:

The residential portions of Ward's Island and Algonquin Island are to be transferred to the City of Toronto for a nominal sum as per previous Council resolution.

Building:

Title and interest of homes is to be transferred to homeowners with documentation as of August 31, 1975, or assignees under legally valid transfers. This also, is in accord with April, 1984, Council Resolution. The 1975 date has been suggested to address the concerns of the TIHA group.

Lease Term:

99 years from December 18, 1981. This is consistent with an objective of "preserving the residential community".

Assignments:

Assignments will be permitted upon payment of a transfer charge as outlined further in this report.

Clubhouses:

TIRA proposes that the clubhouse buildings be conveyed to the respective associations for a nominal sum.

The staff suggests a technical modification. It is proposed that the clubhouses be conveyed to the City of Toronto. In turn, the clubhouses will be leased to the respective associations at a nominal rent. These leases are to be on a net, net, net basis, at no cost to the City.

There may be back rent due to Metro for the two clubhouse buildings. A contingency amount has been included in the financial summary for this purpose.

Services:

The Sewer capital cost has been rolled into the capitalization of the lease. The costs for services are included as the appraisals were based on a "serviced lot".

B. Unresolved Issues:

Rent:

The rent on a ground lease can be a single lump sum pre-payment or a periodic rental payment over term of lease.

TIRA has indicated that the majority of Island residents will opt for a single payment at the beginning of the lease term rather than periodic rental payments.

The determination of lease rent amounts are derived from independent appraisals based on appraised value and services in existence in 1981, plus sewer costs, but not including rental arrears. The City's position is based on independent appraisal data. A fully serviced lot on the Islands is worth:

- $30,000 for Ward's Island and
- $35,000 for Algonquin Island

TIRA takes the position that the payment for all Island properties should average $25,000.00. In addition, they want the City to absorb $3.2 million for rental arrears.

Arrears:

The draft legislation proposals are based on a transfer of the land to the City in December, 1986. This will result in the City being responsible for the payment to Metro arising out of the arbitration award.

The City has received an invoice from Metro and to date has paid $2,620.000.00, which represents 4 years of rental arrears owing to Metro. A further payment of $655,000.00 will be made on December 18, 1986. A further claim has been made for interest which is being reviewed by myself, in consultation with the Commissioner of Finance and the City Solicitor.

The arrears for the 5 years per dwelling on the Island Home, based on the Atlin Award are:

	Rent	Interest	Total
Ward's Island:	$10,880	$3,606	$14,486
Algonquin Island:	$14,500	$4,810	$19,310

The above rent amounts, if paid, will yield the principal amount of $3.2 million dollars.

TIRA proposes that there should be no separate payment for the arrears, or in the alternative, this amount should be rolled into the proposed $25,000 lump sum payment.

Alderman Martin has proposed a title transfer charge in lieu of the above-noted arrears. A one-time payment of $15,000.00 would be payable whenever a title is transferred for a particular property for the first time. The amount of this payment is not substantially different to that of the capitalized arrears.

3. Conclusions:

The City's position is based on previous Council authority and supplementary appraisal information prepared for the arbitration hearings.

At this point in time, this is the closest the parties have reached in arriving at a settlement. There have been no discussions directly between Metro and the City on this matter.

The City should adopt a market value approach comprised of capitalized lease payments of $30,000.00 (Wards Island) and $35,000.00 (Algonquin Island).

The one time title transfer charge of $15,000.00 is an attractive method of resolving the arrears issue provided interest is accrued from the date of the passing of the legislation.

4. Recommendations:

a. That your Committee and City Council adopt the proposals outlined in Appendix 1-2.

b. That your Committee and City Council establish capitalized lease payments for Ward's and Algonquin Islands.

c. That the City accept a one time Assignment transfer payment of $15,000.00 together with interest at a rate to be set by Council accrued from the date of the passing of the legislation.

d. That the City Solicitor, in consultation with the Commissioner of City Property and other officials, report further on the form of the legislation.

Appendix 1-1

On April 30, 1984, Council adopted the following resolution:

"Whereas it has been the policy of City Council to support the preservation of the Toronto Island Community; and whereas it was the intention of the Provincial Legislature in passing Bill 191 to preserve the Toronto Island Community; and whereas the recent decision of the Divisional Court holding that the residential structures on the Toronto Islands are owned by the Municipality of Metropolitan Toronto jeopardizes the future of the Toronto Island Community and undermines the intent of City Council and of Bill 191; and whereas City Council has recommended that Bill 191 be amended to provide that no rent is payable on Island structures by the City or by Island residents; therefore be it resolved that City Council;

(1) restate its commitment in support of the Toronto Island Community;

(2) request the Mayor and the members of the Executive Committee to convene an urgent meeting with Premier Davis, appropriate Ministers, and interested parties to seek the enactment of appropriate legislation to bring about the transfer of the residential portions of Ward's Island and Algonquin Island to the City of Toronto;

(3) restore rights of ownership to Islanders;

and be it further resolved that in no circumstance will the money owed to Metropolitan Toronto be paid for by the general taxpayer, but that every effort be made to collect rent, taxes, and any other appropriate costs owing from those who now occupy, or have in the past occupied houses on the Islands, and that the appropriate City Officials be instructed to act accordingly."

Appendix 1-2

	Subsection 215a Municipality of Metropolitan Toronto Act (BILL 191)	Recommended Position
Land	All land belongs to Metro. All interest is leased and assigned to the City.	Land transferred to City effective date of passing of new proposed Act.
	What exists shall remain - no new structure - lease of land from City. No structure on vacant land	The City will allow structures to be built upon vacant lands subject to zoning by-laws
Buildings and Structures	All buildings belong to Metro. All interest is leased and assigned to the City. what exists shall remain - no new structures - Lease of buildings from City.	Title and interest of home back to Islanders holding legal documents effective _____, 1986 provided all arrears are paid.
		At expiry of ground lease no compensation is payable.
		Title and interest of AIA & WIA Clubhouses conveyed to City effective date of new proposed Act. Leased to respective Association at a nominal rent (net,net,net lease) No compensation or backrent to Metro.

Rent	City pays rent to Metro annually at 1981 market value (Lease for 5-year intervals) Lease to the occupants on value determined by the City based on its costs. (Lease for 3-year intervals)	Rent to be prepaid for 99 years. Amount of rent not agreed to.
Lease	Until July 31, 2005	99-year lease commencing December 18, 1981. Prepaid capital lease amount not agreed to. In addition, the Islanders will be responsible for payment of realty taxes, utilities and repair costs to conform to the Housing Standards By-law
Assignments	Assignment or transfer allowed	Assignments, transfers allowed upon payment of a charge. Lessees must be up-to-date on all payments. City must be notified prior.
Bus	Maintain services at level of 1980	Maintain services at level of 1980.
Ferry	Maintain services at level of 1980	Ferry deficit costs to be treated in a like manner as T.T.C. deficit.
Writs of Possession	Writs are assigned to the City of Toronto When an occupant enters into a lease for the land and structure, the Writ will expire.	Writs will not expire until a ground lease has been entered into.
Arbi-tration Award		City responsible to Metro for rent arrears, in accordance with arbitration award up to date of passing of Bill_____1986 Payment of rent arrears not agreed to by TIRA

The Executive Committee also submits the report (November 26, 1986) from the Commissioner of City Property:

Subject: Toronto Islands - Financial Implications

Origin: Commissioner of City Property (c33exec860160:0006)

Comments: Appendix 2-1 is a summary of 1987 Financial Transactions based on market value rents, as proposed by the City.

This chart shows a breakdown of all costs and the total monetary impact on the City. These costs have many uncertainties associated with them as represented by the contingency amounts shown.

Appendix 2-2 is a similar calculation based on $25,000.00 per lot proposed by Alderman Martin.

Appendix 2-3 shows all capital servicing costs paid by the City.

It can be concluded that the City will substantially recover its costs, based on the proposals presented in these reports.

Recommendation: That this report be received for information.

Appendix 2-1

Summary of Financial Transactions
City of Toronto
Based on Market Values

Funds Disbursed	Funds Received	Paid By	For	Surplus (Deficit)
	$ 8,085,000	Lessee	100% recovery of Cost of leases (147 x $30,000) (105 x $35,000)	
$ 3,275,000		City	Payment of rent to Metro for 5 years	
	$ 3,750,000	Lessee	Payment of Transfer Charge by Islanders	
(Under Negotiation)		City	Contingency for interest payable to Metro for period Dec 18/81 to Dec 17/86. (Claim by Metro - $1,250,000)	
$ 600,000		City	Ferry Deficit; 1981-1986 Paid to Metro	
$ 1,815,000		City	Reserve for Ferry Operating Deficit Period 1987 to 2012	
$ 150,000		City	Contingency for Rent & Interest on Clubhouses payable to Metro. for period 1981-1986	
$ 1,839,000		City	Capital Cost of Sewer Connection	
$ 7,679,000	$11,835,000			$4,156,000

Appendix 2-2

Summary of Financial Transactions
City of Toronto
Based on $25,000.00 Per Lot

Funds Disbursed	Funds Received	Paid By	For	Surplus (Deficit)
	$ 6,300,000	Lessee	100% recovery of Cost of leases (252 x $25,000)	
$ 3,275,000		City	Payment of rent to Metro for 5 years	
	$ 3,750,000	Lessee	Payment of Transfer Charge by Islanders	
(Under Negotiation)		City	Contingency for interest payable to Metro for period Dec 18/81 to Dec 17/86. (Claim by Metro - $1,250,000	
$ 600,000		City	Ferry Deficit; 1981-1986 Paid to Metro	
$ 1,815,000		City	Reserve for Ferry Operating Deficit Period 1987 to 2012	
$ 150,000		City	Contingency for Rent & Interest on Clubhouses payable to Metro. for period 1981-1986	
$ 1,839,000		City	Capital Cost of Sewer Connection	
$ 7,679,000	$10,050,000			$2,371,000

Appendix 2-3

Capital Servicing Costs

Paid By City

Extension of existing Walkways, Ward's Island	$ 311,532
* Sewers and Connections	$1,838,988
Watermains	$ 251,961
Street Lighting	$ 42,500
Water Services (Hook-ups)	$ 193,224
Total	$2,638,205

* Council decided that the cost of Sewers and connections be allocated to the Island residents. This cost is proposed to be rolled into the capitalized leases.

All other costs financed under the City's Capital and Operating Budgets and the Water Rate Stabilization Reserve.

Authority - Executive Committee Report No. 39, Clause 54, adopted by City Council on September 9, 1982.

The Executive Committee also submits the report (November 26, 1986) from the Commissioner of City Property:

Subject: Toronto Islands - Winter Ferry Deficit

Origin: Commissioner of City Property (c33exec86161:0006)

Comments: The City is presently responsible for the operating deficit of the winter ferry.

This deficit has amounted to approximately $150,000.00 per year. (Each year T.T.C. operating subsidies from the Province flow through Metro to reduce this deficit.)

It is very difficult to predict the amount of the deficit. It is likely that the deficit will be fluctuating widely in the ensuing years. For this reason, staff have provided a substantial contingency at a level of $200,000.00 per year over 25 years.

Alternatively, the City can urge the Province to treat ferry service to the Island Community as an essential transit facility and financed in a manner similar to the T.T.C. operating deficit.

Recommendation: That the City request the Province to treat the ferry operating deficit in a similar manner as the T.T.C. operating deficit.

The Executive Committee also submits the report (November 13, 1986) from Alderman Martin:

The proposed terms for settling the outstanding matter of rental arrears and future lease payments comes as a result of a process of debate and discussion between the City of Toronto and the Toronto Island community, within the Toronto Island community, and between individual members of Council and the Island community. It meets the often contradictory objectives of:

1) Guaranteeing a viable residential community on the Islands;

2) The Island communit paying market rent;

3) That the settlement of all accounts, including rental arrears, be paid for by the community and not by the taxpayer in the City of Toronto, and

4) That the City of Toronto not experience a windfall at the expense of the Toronto Islands community.

The capitalized lease is a good instrument since it provides up front cash to go toward costs to the City associated with the residential community on the Toronto Islands. It allows much more flexibility in solving an array of problems and settles once and for all a range of issues emerging from Bill 191, and to be resolved in the new Bill.

1. Value of the Capitalized Lease

It is generally conceded that Islanders should be paying market rent for the land on which their homes are situated. The ongoing debate is precisely what that market rent figure should be. The capitalized 99-year lease allows us to look at that rental value in much the same way as we would a purchase. Like any attempt to value land, there is a broad range of price established by different appraisers. This is apparent in the large difference among the three principal appraisers giving evidence to the Island arbitration. It is clear that the full range of appraised values for the serviced lots on the Islands for a 99-year lease ranges from $15,000 and up. Presumably, the real value will not be established until several homes have been sold. The approach taken in the settlement proposed is to choose a figure slightly above the minimum at $17,500 and then incorporate into the lease an anti-speculation clause requiring any Islander to make a lump sum one-time payment of $15,000 to the City of Toronto when they sell their property for the first time. This has two distinctive advantages:

(a) It addresses the argument that either the City or the Island residents will realize a windfall depending on how much at variance with the appraised value the actual market price is.

(b) More importantly, it addresses the issue of affordability and viability of the Island community by allowing the City to treat all Island residents regardless of income the same; something that choosing the high-end appraised value and then adding back rent would not allow us to do since many Islanders could simply not afford to pay themore than $40,000 ticket that would result.

2. Back Rent

There has been considerable talk about the fact that back rent between $10,000 and $14,000 is owing to Metro and that we should therefore attempt to add this on to the capitalized lease. This approach is wrong for the following reasons:

(a) Bill 191 itself creates two rents owing for the Toronto Island properties. One is the rent determined by either negotiation or arbitration owing by the City of Toronto to Metro Toronto. The other rent, again determined by either negotiation or arbitration, is between the Toronto Island residents and the City of Toronto.

(b) On the surface, it would seem that by Council's motion of April 30, 1984, these two rents must, by definition, be the same. However, the capitalized lease approach creates an opportunity wherein the two rents can be different and at the same time, the City of Toronto taxpayer will not have to pay for that difference.

It is sensible to establish two different back rents for the following reasons:

(a) The City of Toronto itself does not, as a matter of policy, regard the $14,000 in back rent as fair. It is simply the result of an arbitration at which we argued that a significantly lower figure would be appropriate and further, at which we argued, and confirmed later in a motion, that rents should not include rent for the houses.

(b) The Islanders, themselves, will never agree to pay rent on their own homes, whether back rent or future rent. In other words, unless two different rents are established, this point alone will make a settlement impossible. As we all know, the $14,000 figure includes rent on houses.

(c) The $14,000 figure was established through the application of the Atlin arbitration and assumes that the Islanders have peaceful enjoyment of their homes. However, the entire period of 1981-1986 has been anything but peaceful for the Islanders. They have not been able to get building permits, for example, something that every other resident in the City of Toronto has the opportunity to do. Metro has continually harassed the community through a variety of measures, including the most recent ones of restricting the number of bicycles onto the ferry and refusing permission to carry large objects on the ferry boat. Winter transportation access to the Toronto Island community remains abysmal, requiring passage over access to the Toronto Island Airport runway. The sewers have only been installed and functioning for two years. What this all suggests is a very strong argument for two different back rents.

The back rent portion of the $25,000 capitalized lease is $7,500 or $1,500 a year, considerably more than the Island residents themselves believe they should be paying in the way of a ground lease, and close to what the City of Toronto took as an acceptable monthly rent for the land.

Summary of Financial Transactions

W. $25,000 Capitalized Lease

Funds Disbursed	Funds Received	For	Surplus To City

		$6,300,000	Cost of Lease Inclusive of Back Rent	
	$3,275,000		Payment of Rent to Metro	
	$1,839,000		Capital Cost of Sewer Construction	
Totals	$5,114,000	$6,300,000	-	$1,186,000
	With Recapture On Sale	$ 500,000*		$ 500,000

* Net Present Value (1986) Assuming 3% Annual Turnover for Five Years

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W. $32,500 plus Lease

	Disbursed	Received	For	Surplus/ Deficit
		$8,085,000	Leases	
	$3,275,000	3,275,000	Rent to Metro	
	1,839,000		Sewers	
Totals	$5,114,000	$11,360,000		$6,246

The Executive Committee also submits Clause 2 embodied in Report No. 33 of The Metropolitan Executive Committee, entitled "Arrears of Rent - Toronto Island Residential Properties", which was adopted by the Council of The Municipality of Metropolitan Toronto at its meeting held on November 21, 1986.

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The Metropolitan Executive Committee recommends the adoption of the following report (October 23, 1986) from the Metropolitan Solicitor; and, further, that the Metropolitan Solicitor be requested to submit a progress report to the Metropolitan Executive Committee on when the outstanding amounts will be forwarded to the Metropolitan Corporation, and on what conditions:

Recommendation: That the Metropolitan Solicitor be directed to take appropriate action as outlined herein to collect arrears of rent and interest thereon on the Island residential properties.

Summary:

At its meeting of September 23 last, in considering the joint report of the Solicitor and the Commissioner of Parks and Property to accept the award of the Arbitrator Mr. Gordon Atlin with respect to the gross rent between the City of Toronto and The Municipality of Metropolitan Toronto, the Executive Committee directed that the Metropolitan Solicitor be requested to submit a report to Council on the appropriate action to take to collect the arrears from the City of Toronto.

In addressing this issue, regard must be had to the fact that there are 3 phases of arrears with respect to the Toronto Island residential tenancies:

(1) arrears of rent under the old ground leases which as determined by the Supreme Court of Canada were terminated effective August 31, 1975;

(2) occupation rent for the lands and structures of the Island properties between August 31, 1975, and December 17, 1981, the date of coming into force of Bill 191 as it is commonly known; and

(3) arrears of rent under the Arbitration Award itself covering the first 5 years of the statutory tenancy between the Metropolitan Corporation and the City of Toronto which expires December 17, 1986.

Dealing with the last phase first because it is the simplest and presents the fewest problems, enforcement of the arrears would normally take the form of invoicing the City for the total amount owing, that is 5 years rental at the rate of $655,000.00 together with interest thereon as appears appropriate, with the City having a reasonable time to make payment. In fact such an invoice was delivered on September 3 last to the City Property Commissioer in the amount of $4,339,323.00 including interest to August 31, 1986. It is understood that payment of this invoice at least as to the principal balance owing, is already under serious consideration by the City.

However, if formal enforcement becomes necssary, section 13 of the Arbitrations Act does provide that an award of an arbitrator may by leave of a judge of the Supreme Court be enforced in the same manner as a judgment or order to the same effect. Technically this would mean an application to Court, should the City refuse to pay the invoice, for the necessary leave of the Court to enforce the award as a judgment.

After that, assuming that such leave is granted, which would seem a reasonable expectation in the circumstances, if thereafter it became necessary to have resort to further enforcement measures, the normal remedies of a judgment creditor would be available such as execution, garnishment of debts owing, attachment and sequestration as might be appropriate. However it is assumed that such drastic remedies will not actually be necessary. As an alternative to this procedure the Metropolitan Corporation could bring a civil action against the City to enforce the award as a claim for debt owing and the same remedies would then be available.

Phases 1 and 2 of the rent arrears present a little more difficulty.

In the first place the arrears of rent and occupation rent are not owing by the City of Toronto to the Metropolitan Corporation but rather are owing by the occupants of the properties individually.

Subsection 10 of section 215a of the Metropolitan Toronto Act deals with this matter. Paraphasing this subsection to simplify it as much as possible it is a condition of the execution of a sub-lease between the City and an individual occupant that the occupant shall pay to the Metropolitan Corporation all taxes and public utility rates paid by the Metropolitan Corporation to the City of Toronto before the day the Act came into force (December 17, 1981) and all outstanding arrears of rent and occupation rent attributable to the lands and structures which are the subject matter of such lease together with interest thereon at the maximum rate provided for under a by-law passed under the Municipal Act in respect to taxes due and unpaid.

In my opinion the words "outstanding arrears of rent" refer to those arrears that arose under the old ground leases which the Supreme Court of Canada declared as having expired August 31, 1975.

From its records the Metropolitan Corporation can determine without too much difficulty the amounts owing if any on the various properties under the old ground leases up to August 31, 1975, using the ground rent specified in such leases. For Ward's Island the standard amount in the ground leases was $150.00 per annum and for Algonquin Island the standard annual ground rent was $200.00. Since this ground rent was secured by a lease it is simply necessary to determine who the relevant lessee was and collect from such person any outstanding arrears of ground rent.

This leaves the second phase of the matter to be considered. In terms of determining the amount of annual "occupation rent", these last two words have no necessary connection or relationship with the arrears of ground rent under the old leases. This is so firstly because the language of subsection 10 refers to occupation rent attributable to the lands and structures and not merely to rent attributable to the lands alone. The expired leases applied only to ground rent. However as has been determined by the Courts the structures became the property of the Metropolitan

Corporation when the leases expired on August 31, 1975. Therefore it is necessary to determine what the occupation rent should be on each of the residences for both lands and structures at a market rent for the period between August 31, 1975, and December 17, 1981, approximately 6 years and 3½ months.

The most reasonable and least easily challenged method for arriving at this figure would be to use figures applied in the course of the recent arbitration. The appraisal report upon which the award was primarily based with certain discounts provided individual market rental amounts for each of the properties by address.

Adding up all these individual property rentals, the aggregate in the appraisal report came to $1,300,000.00 annually. Bearing in mind that the actual award was only $655,000.00, this represents a ratio of 50.38 per cent. ($655,000.00 divided by $1,300,000.00 multiplied by 100) to the appraisal figure. Thus one can take the individual property rental shown in the appraisal report and multiply it by 50.38 per cent, thereby arriving at a fair market rental for each individual property on the Island as of December 17, 1981, based on the arbitration award.

The next step would be to allow for inflation working backward at the relevant CPI rate of inflation for each year up to August 31, 1975.

To the result thus obtained must however be added the interest as provided for in subsection 10 of section 215a of the Metropolitan Toronto Act.

The specific provision in the subsection for interest is "the maximum rate provided under a by-law passed under the Municipal Act in respect of taxes due and unpaid".

Section 412(1) of the Municipal Act authorizes a maximum interest rate of 1-1/4 per cent per month which amounts to 15 per cent per year.

Therefore in computing the arrears of rent and allowable interest this rate of 15 per cent per year must be applied effective August 31, 1975.

With this formula it is possible to calculate with a high degree of accuracy what is the fair market rental for the lands and structures from August 31, 1975, up to December 17, 1981, and interest on each of the individual properties.

Under the legislation it is up to the City to determine who is the eligible occupant. The appropriate means of enforcing the rights of the Metropolitan Corporation to payment of the arrears would be to prepare, on the basis of the procedures outlined herein, a statement with respect to each of the individual properties as to arrears, giving due credit for whatever payments have been made on account gratuitously. With this information a demand should be made on the City pursuant to subsection 10 that it require payment of these arrears as a condition precedent to its entering into any sub-lease. Out of abundance of caution the City should be requested to provide copies of this information, together with a copy of the letter of demand upon the City to each of the individual 'occupants' of each of the houses on Toronto Island as determined by the City of Toronto Council. It is assumed that since they are not permitted to enter into sub-leases with the City until they have paid these arrears on which interest is still accruing, the occupants would have a sufficient incentive to pay them without it being necessary for the Metropolitan Corporation to bring individual actions. However if that is absolutely necessary it could also be done once the City has determined who is the occupant entitled to enter into a lease with it.

To recapitulate, the appropriate steps to collect the arrears of rent from the City are:

(1) The submission of an invoice to the City itself for the arrears of rent under the arbitration award together with interest. This has, I understand, already been done.

(2) If the invoice is not paid within a reasonable time (which time could be set by Metropolitan Council) the Solicitor would then automatically bring the appropriate application to have the award enforced as a judgement.

(3) Once the arrears of rent, occupation rent and interest thereon on the individual residences has been determined in accordance with the formula suggested herein, the furnishing of this information with sufficient particulars as to such arrears for each of the houses to the City

of Toronto with a request that the City forward this information to the person whom it determines to be the legitimate occupant of each of the houses and further demand that the City require payment of the relevant arrears applicable to the Metropolitan Corporation as a condition precedent, together with other conditions set out in subsection 10 prior to the City's entering into any sub-lease.

(4) In the unlikely event that this demand is not complied with, the taking of appropriate legal action against the "occupants" or any other parties against whom the Metropolitan Corporation may have a legal claim with respect to the arrears.

The Metropolitan Executive Committee reports for the information of Council having referred Part (i) of the following motion by controller Yuill to the Metropolitan Solicitor for a report thereon to the first meeting of the Metropolitan Executive Committee in 1987; and having referred Part (ii) of the following motion by Controller Yuill to the Metropolitan Toronto Chairman for discussion with the Mayor of the City of Toronto with a view to establishing a date when the rent for the Toronto Islands is due:

Motion by Controller Yuill

(i) that interest charges which have been determined for the Toronto Islands be deducted from the rent that the Metropolitan Corporation pays to the City of Toronto for lease of space in City Hall; and

(ii) further, if the City of Toronto pays rent for the Toronto Islands at the end of the year, that the rent for lease of space in City Hall should also be payable at the end of the year.

(Report (September 10, 1986) addressed to the Executive Committee from the Commissioner of City Property)

Subject: Toronto Islands - Rent owing to Metro Toronto

Comments: On April 16, 1986, Mr. G. Atlin, Q.C., presented his arbitration award with respect to rents for the Toronto Islands properties, which established an annual rent of $655,000 payable to Metro by the City.

On August 26, 1986, the Supreme Court of Ontario upheld this decision and Metro's application for Judicial Review was dismissed.

I am now in receipt of an invoice from the Municipality of Metropolitan Toronto in the amount of $4,339,828. This invoice covers rent due for Ward's and Algonquin Islands properties from December 18, 1981, to August 31, 1986, together with interest.

Funds have been set aside to cover this expense.

As your Committee is aware, the Province of Ontario has agreed to amend the legislation in accordance with City Council's April, 1984, resolution. The legislation, when enacted in this form, will result in the conveyance of the land to the City and the structures to Islanders with documentation. The effective date of this legislation has a direct bearing on the amount of rent that the City will have to pay Metro.

Recommendation: Your Committee's direction is requested with respect to payment of the invoice received from Metro.

(Report (October 10, 1986) addressed to the Budget Review Group, from the Commissioner of Finance)

Comments: On May 5, 1986, City Council adopted Clause 15 of Executive Committee Report No. 15, recommending that the rent payable by the City of Toronto to Metropolitan Toronto for the initial five-year period under Bill 191 be paid at the rate of $655,000 per annum, with funds to be provided from the Reserve for Toronto Islands Land Rental Account.

On September 2, 1986, Parks and Property Department of the Municipality of Metropolitan Toronto forwarded two invoices to the Commissioner of City Property, in the amounts of $4,339,828 and $100,060. The invoice in the amount of $100,060 was returned by City Property to Metropolitan Toronto because the City is not liable for these costs, i.e. the rents plus interest owed by residents prior to December 18, 1981 nor is the City obliged to collect that amount on behalf of the Metropolitan Corporation. The invoice for $4,339,828 represents the rents due from the City of Toronto for Wards and Algonquin Islands, in the amount of $3,275,000, from December 18, 1981 to August 31, 1986, plus interest in the amount of $1,064,828, calculated on cumulative total at Metro annual average interest rate. The average rate was based on an interest range from 9.48 percent to 15.3 percent.

The City Solicitor has advised that the rent is payable in annual instalments. However, the relevant provisions of Municipality of Metropolitan Toronto Act do not specify whether the rent was to have been paid in advance. Further, the award of the Arbitrator does not address the issue of the timing of rent payments. In consultation with the City Solicitor and the Commissioner of City Property, I recommend that only the rental for the period December 18, 1981 to December 17, 1985 be paid to Metro at this time. A further final payment of $655,000,000 for the last year of the five-year term in respect of which the Arbitrator has set the rent would be due and payable on December 17, 1986. Funds are available in the Reserve for Toronto Islands Land Rental Account.

The Commissioner of Finance and the City Solicitor and Commissioner of City Property will review the interest charge and address the question of "interest", if any, in a future report.

Recommendations:

1. That the City Treasurer be authorized to make payment of $2,620,000 to the Municipality of Metropolitan Toronto to cover the cost of rental, not in advance and not including interest, for the period December 18, 1981 to December 17, 1985 (4 years $655,000 per annum).
2. That the City Treasurer be authorized to make the final payment to Metro, of $655,000 for rent due on December 17, 1986, to cover period from December 18, 1985 to December 17, 1986.
3. Funds are available in the Reserve for Toronto Islands Land Rental Account No. 502-016.

The Executive Committee also submits the communication (October 1, 1986) from the Metropolitan Toronto Clerk:

I am enclosing for your information and any attention deemed necessary, the appended Clause No. 11 contained in Report No. 25 of The Metropolitan Executive Committee, which was adopted, without amendment, by the Council of The Municipality of Metropolitan Toronto at its meeting held on September 30, 1986.

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Metropolitan Toronto and City of Toronto Island Rental Judicial Review Application

The Metropolitan Executive Committee recommends the adoption of the following joint report (September 3, 1986) from the Metropolitan Solicitor and the Commissioner of Parks and Property:

Recommendation:

(1) that the Metropolitan Corporation acknowledge and comply with the Award of Gordon Atlin, Q.C., Arbitrator, dated April 16, 1985, as confirmed by the Judgment of the Divisional Court of the Supreme Court of Ontario.

Summary: On April 16, 1985, the Arbitrator appointed by the Court to determine the market value rent between the City of Toronto and the Municipality of Metroplitan Toronto respecting the Toronto Island Residential properties under the 1981 Amendment to the Metropolitan Toronto Act rendered his Award in the matter. By the terms of this Award the rent for the first five-year period commencing December 17, 1981, was fixed at an annual figure of $655,000.

At the time this Award was handed down, it appeared that there were good reasons to doubt the correctness of it legally speaking. Accordingly, Metropolitan Council on May 14, 1985, adopted the recommendation of the Metropolitan Solicitor and the Metropolitan Property Commissioner that the Solicitor be authorized to take proceedings by way of stated case or judicial review as might appear to be appropriate, to have the validity of the Award tested in the Divisional Court.

The application for judicial review subsequently brought, came on for hearing before the Divisional Court on Tuesday, August 26 last.

At that time, after hearing full argument from both sides, the Court, after some deliberation, delivered Judgment dismissing the Metropolitan Corporation's Application but without costs.

Essentially it would appear that it was the view of the Divisional Court that if there were errors by the Arbitrator in the construction of the statute, they did not go to his jurisdiction. The Court was not prepared to say that the interpretation placed upon the statute by the Arbitrator and his interpretation of the evidence before him, was so erroneous as to afford grounds for setting the Award aside by way of judicial review. It must be borne in mind that under the statute there was no provision for an appeal as such. Judicial review is a procedure of much narrower scope than an appeal.

The manner in which the Judgment is stated would appear to leave little room for further legal steps to be taken to overturn the Award or have it quashed. While in retrospect it was worthwhile to have attacked the Award in light of the fact that it was less than half of the estimated market rental appraisal of the lowest expert called by the Metropolitan Corporation nevertheless it would not be advisable in our opinion to attempt to take the matter any further.

It should be pointed out that the Corporation of the City of Toronto now owes the Metropolitan Corporation rental arrears at the rate of $655,000 from December 17, 1981, to the present. These arrears would appear to attract interest at the appropriate prime rate of the Bank of Canada in the ordinary way.

It should also be noted that subsection 10 of section 215a of the Metropolitan Toronto Act requires as a condition of the execution of any lease between a subtenant and the City of Toronto that the occupant pay the Metropolitan Corporation all outstanding arrears of rent and occupation rent accruing up to December 17, 1981, together with interest thereon at the maximum rate provided under a by-law passed under the Municipal Act in respect of taxes due and unpaid.

The Metropolitan Executive Committee reports having requested the Metropolitan Solicitor to submit a report to Council on the appropriate action to take to collect the arrears from the City of Toronto.

The Executive Committee also submits the communication (November 28, 1986) from Mr. David Hustler, Toronto Island Homeowners' Association:

History: The founding of the Toronto Island Homeowners' Association came about with the passing of Bill 191 when priority to occupy and sign new leases to houses of non-resident homeowners was transferred onto the tenants of such non-resident owners if those tenants were in occupation at anytime between October 19, 1978, and December 9, 1981.

Problems: The passing of Bill 191 brought a myriad of problems into the lives of the non-resident homeowners.

Bill 191 prevented us from gaining possession and occupying our houses, collecting rent from out tenants and rendered us powerless to exercise our rights as the holders of the last valid lease. Our tenants in the meantime have had full use and rent free enjoyment of their windfall since December 18, 1981. Many have taken liberties with the situation and completed structural changes and additions to our houses, others have let their windfall slide into a state of disrepair.

The lack of communication between various levels of government finds the non-resident homeowners being sent realty tax bills for their Island property. Several members of our association have recently received bailiff notices regarding the non-payment of these taxes.

The past and present problems we have encountered due to Bill 191 will be greatly added to when ownership of our houses is returned to us.

This is amply illustrated by the events surrounding the vacating of my mother's house by her tenant last Wednesday. We had anticipated that an exodus would occur when the costs were tabulated fot the occupation of Island houses from December 18, 1981, onwards. By vacating the premises and withdrawing her application for the lease to 8 Ojibway Avenue my mother's tenant hoped to absolve herself from her financial obligations to the City of Toronto for her occupancy during that period and transfer them onto my mother as the leaseholder of record.

The condition we found our house in last week was just short of deplorable. Apart from a general state of neglect, the roof was in such a state of disrepair as to need replacing.

The skirting had been removed around the house to a height of three feet which resulted in frozen water pipes. Various interior alterations had taken place including the wilful removal of a quantity of bricks and the damper from the fireplace. To add insult to injury the front hedge had been removed and replanted four houses to the south of ours.

Principles: There are a number of principles involved here that have been expunged with the passing of Bill 191. The first and foremost are property rights. Ownership of Island houses must be returned to those with the last valid lease or their heirs, Bill 191 has proven that to grant it to any other party creates an unworkable and unjust situation.

The second principle that must be dealt with is the principle of fair play. All parties expect to be treated fairly in this issue, the non-resident owners have a disadvantage in this respect, from the developmental stages of Bill 191 onwards, we have never been treated fairly.

Recommendations: Ownership of Island homes returned to those who hold the last valid lease or their heirs. Ownership of Island residential lands transferred from Metropolitan Toronto to the City of Toronto.

A viable figure be found to cover the cost of the capitalized 99 year lease, the payment of back rent and sewer installation costs. Our association has no problem with the $25,000 figure being put forth by Alderman Martin, but must add that we were never informed of, or involved in, any of the negotiations leading up to the formulation of this figure. We do however have a problem with the title transfer payment of $15,000 contained in his proposal which will be used to offset the rental arrears of 3.2 million dollars the City has had to pay Metro.

The non-resident owners have received no benefit from their leasehold interests from December 18, 1981, onwards, and want assurances that in no way will they be held liable for any of the occupation costs from the time of the passing of Bill 191 up to the time of enactment of new legislation amending or rescinding it.

Those that have been in occupation and received the benefit of our leasehold interest during this period must be held responsible for the payment of these arrears.

That the deteriorated condition of some of the non-resident owners houses due solely to their tenants neglect, be taken into consideration. It will take a greater outlay of capital to bring our houses up to City Building Code Standards due to the neglect and damage inflicted by our tenants.

That the non-resident owners have free and vacant possession of their houses within 60 days of the coming into force of any new legislation replacing Bill 191.

The Executive Committee also submits the communication (November 28, 1986) from Luise Schoenborn, a Toronto Island resident:

I am Mrs. Luise Schoenborn. My husband and I have been living on Toronto Island since 1951, for 35 years - all our Canadian life.

You may believe that I know the whole Island situation well. You may also believe that we are terribly weary of struggling for survival against unfounded accusations. Thus we were glad when

the Swadron Commission was formed to study the Island controversy, and when the then Conservative Ontario Government decided to guarantee the Island community existence to the year 2005.

Mr. Swadron had made it a point, that the City should make sure that our houses would be hurriedly brought up to City standards. When the building inspector therefore came around, and found in our house that the ceilings would have to be replaced, plumbing to be renewed, we, with the prospect of finally being safe from eviction, had all these flaws corrected.

Though our financial situation is such, we would have been eligible for assistance, we could not get it, because of our house being on the Island. "Perhaps later" - we were told. Thus we spent all our savings to meet the housing standards - about $7,000.

You can imagine how we felt when we learnt of Metro's claim, we would not own our houses any more, but had to pay a high rent for them to Metro, all taxes and upkeep as well as rent for the ground.

As you know, this unbelievable situation was found intolerable also by the new Ontario Government, and so I believe, by the other parties in Queen's Park as well.

Since about one year, they are ready to bring in legislation, to give us our homes back, the ground to you, the City, and for us the possibility to buy a 99 year lease for the ground, on which our houses stand.

However, the price for the 99 year lease would have to be settled betwen the Islanders and the City.

When the Dale Martin proposal, you are all familiar with, was first presented, I cannot tell you how shocked I was by the huge expense we should face. And quite a few of my neighbours were also. Twenty-four of the Islanders are senior citizens, some are single parents, on Algonquin Island, 2 persons in wheelchairs.

As already mentioned, we had spent $7,000 - on repair work, and have just paid out our last $2,000 - for new roofing.

However, after much thinking, talking and calculating, and being terribly tired of ever new battles, including expensive court cases, my husband and I as well as many others with low income made the decision to support the Dale Martin proposal, and borrow the money to pay for it. These interest payments will be the very limit we can squeeze from our small pensions.

Please, do help us settle the issue without delay, to enable the Provincial Government to bring in the corresponding legislation - one which would not destroy the character of our community.

Your recommendation would have great influence on the other members of City Council.

As you will know, for every delay, the City is supported to pay more backrent to Metro, and we Islanders are to reimburse the City.

I also would like to ask you, to please make this motion the first item on the next meeting of Council, to prevent any further postponement.

Often, when people pass by our fence, they say: "How good you are safe now and can remain until 2005." When we then tell them the actual story, they shake their heads in disbelief - or they think, this cannot be true, not in Canada!

(Council Action)

During consideration of this Clause, Council also had before it the following:

Communication (December 1, 1986) from David Hustler, Spokesperson of the Toronto Island Homeowners Association

History: The enclosed letter to all Members of Provincial Parliament will give you an overall background to the founding of our association.

Concerns: The Toronto Island Homeowners Association was supposed to be involved in negotiations to bring about amendments to Bill 191, yet we were not informed of, or included in the negotiations between Alderman Martin and T.I.R.A. We had no prior discussion with Mayor Eggleton concerning his motion before Executive Committee last Friday, and only received a copy of Commissioner Nathwani's recommendations the afternoon of November 27, 1986. To exclude the concerns and participation of the non-resident owners in any matters dealing with the Toronto Islands is to deny us due democratic process.

We have concerns regarding the payment of occupation costs from the time of the passing of Bill 191 up to the passing of new legislation replacing it. We were not in occupation during this period, our tenants were, and we received no benefit from our leasehold interest during this period, while they had full use and rent free enjoyment of our houses.

The occupation cost for this period totals more then we would have normally been collecting in rent. The cost of legal fees to try and retrieve these rental monies will put us further out of pocket.

We will have a considerable outlay of capital to repair the neglect and damage to our houses caused by our tenants.

These additional costs which are of great concern to us, have not been taken into account by the City of Toronto.

We should not be expected to bear the financial brunt of our tenants occupation costs from December 18, 1981 onwards, and want this issue resolved before any further discussion occurs concerning payment of the rental arrears.

(Communication dated September 30, 1986, from David Hustler, Toronto Island Homeowners' Association)

There were a number of unresolved issues arising out of the Toronto Island Homeowners Association's deputation before the City of Toronto Executive Committee on September 17, 1986. To start with we would like to establish the number of non-resident leaseholders who lost their houses to their tenants due to Bill 191.

To clear up any misunderstandings as to how many non-resident homeowners there actually are, I am providing you with a list of ones we have verified at the present time.

Island Address	*Non Resident Homeowner*
2 Nottawa Ave.	*Don & Lorna Taylor*
8 Nottawa Ave.	*Frank Maderick*
8 Ojibway Ave.	*Dorothy Hustler*
11 Ojibway Ave.	*Shirley Holland*
10 Omaha Ave.	*Bea & Walter Hubbard*
22 Omaha Ave.	*Lori Carter*
4 Onieda Ave	*Paul & Mary Henderson*
1 Dacotah Ave.	*Marg Forbes*
10 Dacotah Ave.	*Bruce Henderson*
21 Sixth St.	*Bessie Minnes*
19 Fifth St.	*Philip & Doreen Green*
20 Fifth St.	*John Woodburn*
8 Fourth St.	*Nancy Heidenreich*
13 Third St.	*Archie & Bonnie Erwin*
16 First St.	*Celia Pomeroy*
14 Channel	*Julius & Eleonor Martin*

There are another two addresses which are in trust and we have been unable to find any heirs to them. There is a further three properties where there is some discrepancy as to the status of the occupants.

With our deputation of September 17, 1986 we attempted to gain the support of the City of Toronto Executive Committee for the return of our houses and recognition that our basic property rights and civil liberties were expunged with the passing of Bill 191. Although we had the opportunity to bring our concerns to the Executive Committee's attention the support we sought was not forth coming.

We still seek the support of the Executive Committee and of City Council and request the Executive Committee present a motion that would support the return of Island homeownership to those who hold the last valid lease or their heirs, and fair and just treatment for the non-resident homeowners for the lost years post Bill 191.

(Communication dated November 13, 1986, from David Hustler, Toronto Island Homeowners Association)

As negotiations proceed on the municipal level to find a workable mechanism to return ownership of Toronto Island homes to those with the proper documentation, the Toronto Island Homeowners Association want to ensure that all M.P.P.'s are made aware of the particular concerns of our association.

The legislation that created the Toronto Island Homeowners Association was Bill 191 passed into law on December 18, 1981, the enclosed excerpt from Hansard introduces the last minute amendment to Bill 191 that placed the nonresident leaseholders of the Toronto Islands in the predicament we find ourselves in today.

Bill 191 took all the rights to our leasehold interest in homes we had built or bought on the Toronto Islands and transferred them to the person we had rented our houses to if they were in occupation at any time between October 19, 1978 to December 9, 1981. In the years since Bill 191 has been in effect we have been powerless to regain the rights to our houses. Apart from having full use and rent free enjoyment of our houses since December 18, 1981 some of our members' tenants have illegally renovated their windfall while others have let them slip into a state of disrepair. Of all the provisions of Bill 191 we feel the transferring of the non-resident leaseholders rights to their houses onto their tenants to be the most inequitable.

As you will note from the Hansard excerpt the amendment stripping us of our right to occupy and sign new leases to our houses was passed with no debate. We want to ensure that all members of the Legislature are aware of our existence and concerns so that a similar action does not overlook the rights of the non-resident leaseholders in any new legislation enacted to replace Bill 191.

Report (December 1, 1986) from the City Solicitor

Subject: Toronto Islands - Payment of a portion of the capitalized rent payment by tenants who have not paid rent to Island property owners

Origin: Executive Committee Meeting of November 28, 1986 (co6cncl86039:75)

Comments: At its special meeting on November 28, 1986 respecting the future of the residential community on the Toronto Islands, the Executive Committee requested me to report directly to City Council today

> *on a recommendation that would ensure that Toronto Island tenants who have not paid rent to Island property owners be responsible for some of the proposed capitalized rent payment of $25,000.*

Mr. David Hustler of the Toronto Island Homeowners Association advised the Executive Committee on November 28, 1986 that, following the enactment of the Municipality of Metropolitan Toronto Amendment Act in December, 1981, certain "tenants" who had entered into leases or similar occupancy agreements with homeowners stopped paying rent.

Homeowners whose tenants stopped paying rent after the current statutory provisions came into force have taken the position that they should not be required to pay the whole of the proposed

capitalized rent payment of $25,000.00, and that a portion of the payment should be paid by the tenants who did not pay rent.

After having considered this matter, I have determined that there are three options which City Council could adopt, if you wish to respond to the concerns which have been expressed by the Toronto Island Homeowners Association.

The current statutory provisions make it very difficult for a homeowner to collect arrears of rent. It is expected that, if the Legislature amends the Metro Act, the amendments will be prospective in effect, and will not alter the legal relationships between Metro and the City and between the City and Island residents for the five year period ending December 17, 1986.

In my opinion, any statutory provision to assist in the collection of a sum or sums from tenants who have not paid rent during the said five year period should be directed toward the collection of arrears of rent, rather than be considered simply as a contribution toward the capitalized rent payment. This assumption is the basis of each of the three options set forth hereinbelow. It would require that any amendments to the Metro Act include a provision validating a lease or occupancy agreement between a homeowner and a tenant or occupant for the said five year period for the purposes of enforcing the landlord's rights. Assuming that such a provision were included in the amending legislation, then there could also be included provisions to implement one of these three options:

1. Risk lies with the homeowner

Under this option, leases and occupancy agreements between homeowners and their tenants or occupants would be validated for the five year period ending December 17, 1986 for the purposes of permitting the homeowners to enforce their rights under such leases and agreements and collect arrears of rent.

The significant advantage of this option for the City is that the City would collect the whole of the capitalized rent payment from the homeowner, and it would be up to the homeowner to enforce his or her rights against the tenant or occupant.

2. Risk transferred to the City

Under this option, leases and occupancy agreements would, again, have to be validated under any amending legislation for the purposes of enforcement. There would also have to be a provision in the amending legislation assigning the interests of the homeowners in the leases and agreements to the City, so that the City could attempt to collect the arrears.

The advantage for homeowners who were able to show that they had not received rent payments during he said five year period would be that they could obtain a lease for a lower capitalized rent payment. The very significant disadvantage for the City would be that it would be awarding a lease for a payment less than the amount otherwise called for, and the City's ability to collect the remainder would depend upon the adequacy of the lease document or other agreement under which rent was alleged to be payable; the ability of the City to prove the state of accounts between the landlord and the tenant (in this regard, the homeowner would almost certainly have to be called in any legal proceedings as a witness); the ability even to find the tenants and occupants who had lived rent free in Island residences during the said five year period; and, even if success were achieved in legal proceedings, the ability to collect on any judgments so obtained. Further, it is unlikely that any award of costs made by the court would, even if it could be collected, cover the full, actual costs of the proceedings.

3. Risk accepted by the City at its option

Under this option, City Council could review individual cases on their merits and decide where the risk should lie; that is, it could either require the full, capitalized rent payment to be made or accept a smaller amount and take an assignment of the homeowner's interest as lessor of the property and proceed subject to the risks I have described under Option No. 2 above.

Further, under this option, or Option No. 2 above, the amending legislation could perhaps reduce the City's risk of financial loss by permitting the City to charge the individual deficits arising from the acceptance of lower capitalized rent payments from some homeowners to the remainder

of them. If the City were successful in recovering sums from former tenants or occupants who had not paid rent, then refunds could be made to those who had been charged extra amounts to cover the shortfall. I would comment, however, that such statutory provisions and their implementation would be very complex and there would be some doubt as to whether the cost of administering them would justify their inclusion in any legislative amendments. Further, it might be difficult on the merits to justify charging shares of a deficit incurred in one lease transaction to other lease holders.

Conclusion: This report and the above three options for addressing the concerns of the Toronto Island Homeowners Association are respectfully submitted for your information. Should you wish to respond to the concerns of the Association, you could request the Provincial Government to include in any amending legislation provisions which would implement the option chosen by you.

Communication (November 29, 1986) from Cor Bal, Associate Real Estate Broker, Re/Max West Realty Ltd.

On behalf of several of my clients in the process of forming an investment syndicate to acquire all 250 lots situated on the above captioned lands.

I offer the appointed institution lawfully in a position to negotiate a deal, the amount of $60,000.00 per lot for a grand total of $15,000,000.00. For a 99 year lease, such leases containing all property rights pertaining to the improvements to be erected thereon.

An agency commission shall be payable to my office in the amount not exceeding 2%, a tentative closing date of March 1, 1987 will be very accommodating to my group.

Other relevant details could be exchanged in the very near future at your convenience.

Communication (December 3, 1986) from James McMillan

I would like to, as a concerned citizen, appear before Toronto City Council in regards to the Island home leases. I believe this is to be Friday 12-5-86. I would like to speak on the issue in person.

Report (December 2, 1986) from the Commissioner of City Property

Subject: Toronto Islands - Retention of Appraisers

Origin: Commissioner of City Property (c33cncl86031:364)

Comments: City Council, at its meeting held on December 1, 1986, gave consideration to Item 1, Executive Committee Report No. 40, and requested that I report to Council when it resumes on December 5, 1986, respecting a motion and amendments thereto respecting the retention of independent appraisers.

1) The Motion Before Council:

The following was moved by Mayor Eggleton:

> *"That this matter be referred back to the Executive Committee and that the Commissioner of City Property report on the terms for the engagement of three independent appraisers to establish an annual ground rent or a prepaid 99-year lease, based on current values for the residential properties on Ward's and Algonquin Islands."*
>
> *The following amendments have been proposed:*
>
> *By Councillor Rowlands:*

"...and provided that the three appraisals include the market value of the land as of the date when the houses were purchased."

By Councillor Jakobek:

"That the Commissioner of City Property also report on an appraisal of the properties that would include the encumbrances of Bill 191 and a appraisal without the encumbrances of Bill 191."

By Councillor Layton:

"That the three independent appraisals have regard to the following four factors:

1) What other tenants/lessees are paying on the island;
2) Comparable communities in Ontario;
3) Historic lease rate and the effects of inflation;
4) Conditions of living on the island."

2) Discussion on Motion and Amendments:

With the exception of Councillor Rowlands' proposed amendment, the various elements of the motion and amendments will be addressed in the following sections of this report. Councillor Rowlands' amendment will necessitate a significantly greater amount of work for the appraisers, resulting in a longer delivery time and higher costs. Council will have to decide on the merits of Councillor Rowlands' amendment relative to the issue at hand.

3) Critical Appraisal Factors:

There are many variables associated with the proposed appraisals. It is necessary to provide the appraisers with very clear and distinct terms of reference.

Legislative Framework - The appraisal can be based on Bill 191 or the proposed legislation as set out in Appendix 1-2 of my November 26th report, or on a conventional landlord/tenant ground lease basis.

Level of Services - The level of services (i.e., sewers, transportation, police, fire, hospital, education, garbage pick-up, etc.), can be based on a pre-1981 basis, current day, or some other projected level which may, for instance, assume full 12 month ferry service.

Type of Lot To Be Appraised - It is proposed that one average lot from each of Ward's and Algonquin Islands be selected as the subjects of the appraisal reports. Although lots on Ward's Island vary in size and, because of location, some lots are considered to be premium lots, due to time constraints it would be impossible to fully analyze each grouping of lots and make the appropriate adjustments.

Leasehold or Freehold Interest - It is proposed that all appraisals be of a leasehold interest on a capitalized basis.

Effective Date - The date on which the appraisal is to be based can range from 1981 to 1986, depending upon the legislative framework.

Term of Lease - This can range to a maximum of 99 years, depending upon the legislative framework.

Escalation Clauses - The annual lease amount can remain constant for the whole term of the lease or be escalated on some predetermined basis, such as an annual percentage increase.

4) Other Considerations:

Principle Residence - It is to be a requirement of the lease that the property is to be the principle residence of the Lessee.

Locational and Climatic Characteristics: - The appraisals shall have regard for the locational and climatic characteristics of the Island community. This may involve a field visit by the appraisers to similar sites in North America.

5) Terms of Reference:

the attached Appendix provide various alternatives for Council's selection.

Recommendation: That City Council adopt one or more of the options outlined in the Appendix of this report.

APPENDIX

Terms of Reference

CRITERIA	OPTION A	OPTION B	OPTION C
Legislative Framework	Based on Bill 191	Based on Proposed Legislation	Based on Conventional Ground Lease
Level of Service	-no sewers -existing watermains -narrow sidewalks -2-month Winter ferry service across Island Airport	-new sewers -new watermains -improved walkways -12-month ferry service to include ice-breaking ferry in the Winter	-same as Option B plus convenience store
Lots to be Appraised	One average lot each from Ward's and Algonquin Islands	Same as Option A	Same as Option A
Leasehold or Freehold	Leasehold on a capitalized basis	Leasehold on a capitalized basis	Leasehold on a capitalized basis
Effective Date	December 18, 1981	December 18, 1981	December 31, 1986
Term of Lease	3 yrs. x 8 = 24 yrs.	99 years	10+10 yrs. x 4
Escalation Clause	Rent review every 3 years	Nil	Annual 4% compounded
Other Considerations	Must be used as principle residence. Must have regard for Locational & Climatic Characteristics.	Must be used as principle residence. Must have regard for Locational & Climatic Characteristics.	No requirement re a principle residence. Must have regard for Locational & Climatic Characteristics.

NOTE: The various criteria have been presented under the three options. The individual criteria may be amended by Council.

Report (December 4, 1986) from the Commissioner of City Property

Subject: Toronto Islands - Retention of Appraisers Supplementary Report

Origin: Commissioner of City Property (c33cncl86032:364)

Comments: Pursuant to Council's direction, invitations to submit proposals were sent to ten firms. Eight proposals were received.

The recommended firms, in my opinion, have the resources and abilities to carry out this assignment.

The total cost of the appraisals depends upon the number of options Council adopts. The estimated gross costs and time frames are:

	Cost Estimate	*Total Time*
for 1 Option	*$75,000*	*60 days*
for 2 Options	*$35,000 additional*	*75-90 days*
for 3 Options	*$20,000 additional*	*90-120 days*

The cost estimates are higher than the amount I had indicated earlier because:

- *the assignment involves appraisal of similar communities in North America; and*
- *the reports will be made available for publication.*

Sufficient funds will be included in this Department's 1987 Operating Budget for this purpose.

Recommendations: If Council decides to proceed with the Independent Appraisals:

1. *That authority be given to retain:*

   Jones, McKittrick, Somer Limited, Toronto
   Mashke, Robson Limited, Toronto
   Royal LePage, Toronto

   to carry out the appraisals in accordance with terms of reference as adopted by Council; and

2. *That the appropriate officials be authorized to give effect to the foregoing.*

Alderman Christie, seconded by Councillor Shea, moved that this Clause be amended by adding at the end thereof the following:

"It is recommended that:

1. **Council endorse the terms of reference of the three options set out in the report (December 2, 1986) from the Commissioner of City Property; that all three options include appraisals with and without the ice-breaking ferry service, and that the appraisals take into consideration current zoning by-laws for the Islands, on both December 18, 1981, and December 31, 1986.**

2. *Council defer consideration of the report (December 4, 1986) from the Commissioner of City Property until its next meeting, subject to a Caucus of Council being held to evaluate professional qualifications of all prospective appraisers considered;*

3. *Council request a report from the Commissioner of City Property outlining the potential for variances in appraisals according to the selection of an appraiser; and*

4. *The City Property Department's 1981 appraisals of the Island properties be made available to the aforementioned Caucus of Council.*

Alderman Disero, seconded by Councillor Shea, moved that this Clause be amended by adding at the end thereof the following:

(a) that any proposal for draft legislation for the Toronto Island Community include a non-assignment, sub-lease or license prohibition such that the lands will return to the City on the death of the original occupant or on the desire of the original occupant to leave; and

(b) a provision to provide that the original occupant or his estate on leaving or death, as the case may be, may dismantle and take their homes away or offer the homes to the City at a price agreeable to the City within fair market value.

Alderman Nowlan, seconded by Councillor Gardner, moved that the City Solicitor, in consultation with the Commissioner of City Property and appropriate staff and agencies, be requested to report on alternative devices that could be used to discourage speculative reselling of Island properties, including mechanisms that were used in the St. Lawrence and Frankel-Lambert Neighbourhoods, as well as co-operative models of ownership. The report should include an evaluation of the effectiveness of alternative methods, including Alderman Martin's proposed $15,000 penalty mechanism.

Alderman Walker, seconded by Alderman Disero, moved that the Commissioner of City Property report on the lot size and number of lots on Algonquin and Ward's Islands.

Alderman Martin, seconded by Councillor Layton, moved that whereas the Province of Ontario appears prepared to introduce a bill into the Legislature restoring home ownership to the Toronto Islands residents and conveying the land on which the residential community sits to the City of Toronto; and whereas the only outstanding matters concern the rent to be paid both in the future and back rent; therefore be it resolved that City Council indicate to the Provincial Government that it is willing to enter into a lease with Toronto Islands residents on the following terms:

(a) that there be a $25,000 payment to the City of Toronto representing a capitalized lease for 99 years, the costs for sewer installation and back rent for the period 1981-1985; and

(b) a one-time payment of $15,000 whenever title is transferred for the first time to a party other than a relative.

Mayor Eggleton, seconded by Councillor Beavis, moved the following:

1. that all matters not directly related to the appraisals or terms of reference be referred to the Executive Committee for further consideration, including the foregoing motions of Aldermen Martin, Nowlan, and Disero, and that staff be requested to report, as requested by Alderman Disero and Alderman Nowlan, to a public meeting of the Executive Committee.

2. that the Commissioner of City Property be requested to report to the Executive Committee on a study of the income levels of the Toronto Island community.

Alderman Korwin-Kuczynski filed material regarding Toronto's purchase in 1787 and 1805.

Alderman Korwin-Kuczynski, seconded by Councillor Rowlands, moved that the Executive Committee hear deputations to deal with the issue of the Indian claim to the Toronto Island lands.

Councillor Rowlands, seconded by Alderman Nowlan, moved that the three appraisals include the market value of the land as of the date when the homes were purchased.

Councillor Layton, seconded by Alderman Martin, moved that the three independent appraisals have regard for the following four factors:

1. what other tenants/leasees are paying on the island;
2. comparable communities in Ontario;
3. historic lease rate and the effects of inflation; and
4. conditions of living on the island.

Mayor Eggleton, seconded by Councillor Beavis, moved that the recommendation contained in the report (December 4, 1986) from the Commissioner of City Property be adopted; which was adopted.

Part 1 of the previous motion of Mayor Eggleton was adopted on the following division of votes:

Yeas: Eggleton, Beavis, Boytchuk, O'Donohue, Gee, Korwin-Kuczynski, Grys, Rowlands, Kanter, Christie, Shea, Walker, Disero, and Jakobek - 14.

Nays: Nowlan, Gardner, Martin, Layton, Gilbert, Hall, and Pantalone - 7.

Part 2 of the previous motion of Mayor Eggleton was adopted on the following division of votes:

Yeas: Eggleton, Beavis, Boytchuk, O'Donohue, Gee, Korwin-Kuczynski, Grys, Kanter, Christie, Shea, Walker, Disero, and Jakobek - 13.

Nays: Rowlands, Nowlan, Gardner, Martin, Layton, Gilbert, Hall, and Pantalone - 8.

The motion of Councillor Rowlands was lost on the following division of votes:

Yeas: Rowlands, Nowlan, Gardner, Martin, Layton, Gilbert, Hall, and Pantalone - 8.

Nays: Eggleton, Beavis, Boytchuk, O'Donohue, Gee, Korwin-Kuczynski, Grys, Kanter, Christie, Shea, Walker, Disero, and Jakobek - 13.

The motion of Councillor Layton was lost on the following division of votes:

Yeas: Rowlands, Nowlan, Kanter, Gardner, Martin, Layton, Gilbert, Hall, Pantalone, and Disero - 10.

Nays: Eggleton, Beavis, Boytchuk, O'Donohue, Gee, Korwin-Kuczynski, Grys, Christie, Shea, Walker, and Jakobek - 11.

The motion of Alderman Walker was adopted.

Part 1 of the motion of Alderman Christie was adopted on the following division of votes:

Yeas: Eggleton, Beavis, Boytchuk, O'Donohue, Gee, Korwin-Kuczynski, Kanter, Christie, Shea, Walker, Disero, and Jakobek - 12.

Nays: Grys, Rowlands, Nowlan, Gardner, Martin, Layton, Gilbert, Hall, and Pantalone - 9.

Part 2 of the motion of Alderman Christie was lost on the following division of votes:

Yeas: Boytchuk, O'Donohue, Christie, Shea, Walker, and Jakobek - 6.

Nays: Eggleton, Beavis, Gee, Korwin-Kuczynski, Grys, Rowlands, Nowlan, Kanter, Gardner, Martin, Layton, Gilbert, Hall, Pantalone, and Disero - 15.

The Clause, as amended, was adopted on the following division of votes:

Yeas: Eggleton, Beavis, Boytchuk, O'Donohue, Gee, Korwin-Kuczynski, Grys, Kanter, Christie, Shea, Walker, Disero, and Jakobek - 13.

Nays: Rowlands, Nowlan, Gardner, Martin, Layton, Gilbert, Hall, and Pantalone - 8.
December 5, 1986.

APR 27 3 01 PM '87
CITY OFFICE
SECTION

CITY OF TORONTO
PROPERTY DEPARTMENT

B

April 21, 1987
H.E. Hodowany

To: The City of Toronto Executive Committee

Subject: Toronto Islands - Supplementary Appraisal Reports

Origin: Commissioner of City Property (c33exec87058:45)

Comments:

1. Introduction

City Council, at its meeting held on December 1 and 5, 1986, approved as amended, Clause 1 of Report No. 40 of the City of Toronto Executive Committee. That report authorized me to retain the services of three independent appraisers to render estimates of leasehold values on a capitalized basis for the Toronto Island properties.

2. Terms of Reference

A summary of the Terms of Reference as amended by Council are summarized in Appendix "A".

3. Survey Sample

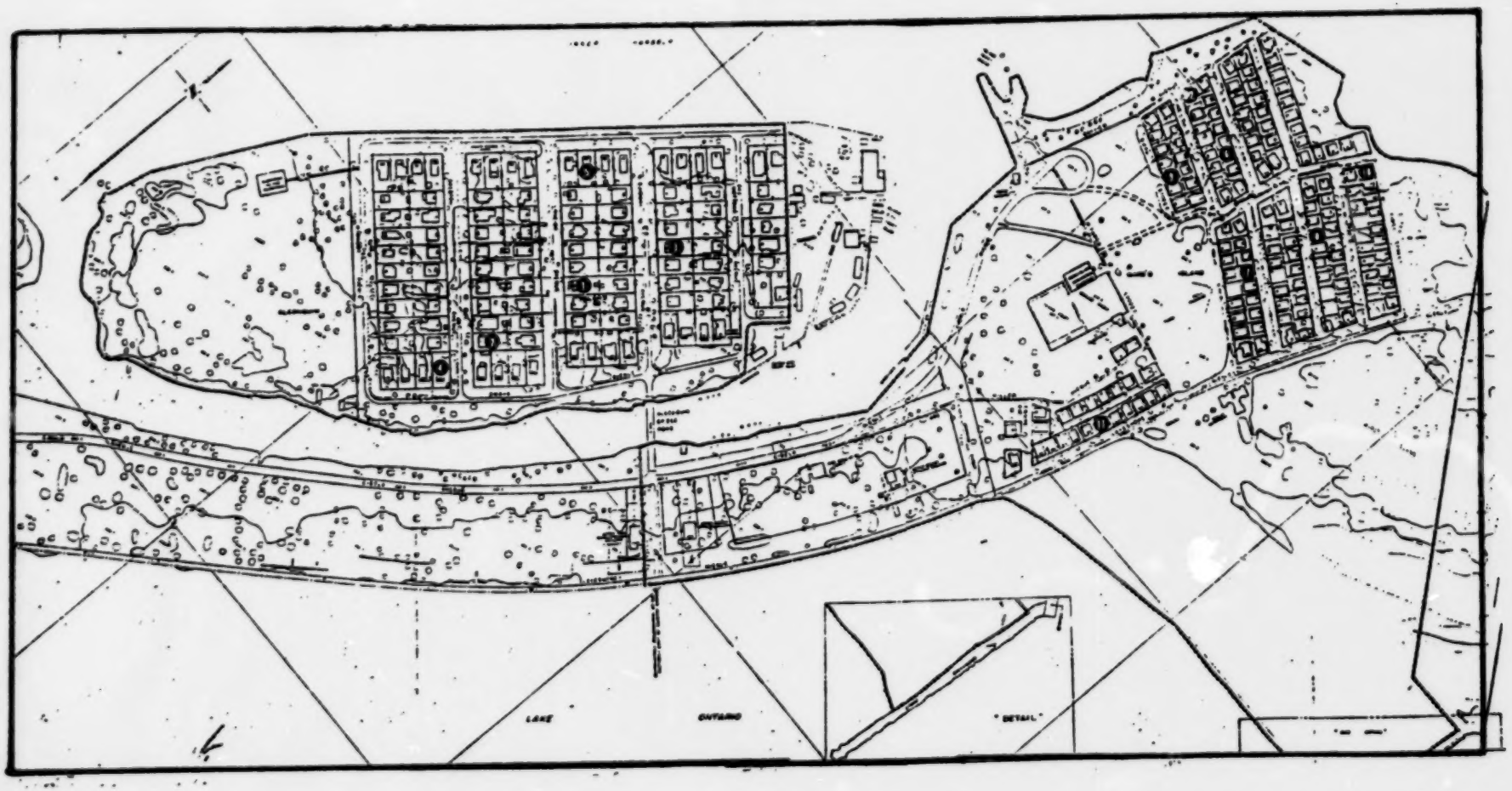
The appraisals were carried out based on a sampling of 12 properties as shown on the attached map. This sampling was jointly agreed upon between Departmental staff and the independent appraisers.

4. Value of Capitalized Lease

The completed appraisal reports and three copies of each report have been deposited with the City Clerk as public documents. A summary of these reports' estimates of leasehold values on a capitalized basis is listed in Appendices "B" & "C".

R. Watkinson
Commissioner

DW-sc


LAKE
ONTARIO
DETAIL

APPENDIX "A"

Terms of Reference

CRITERIA	OPTION A		OPTIONS: B1* B2**		OPTIONS: C1* C2**
Legislative Framework	Based on Bill 191		Based on Proposed Legislation		Based on Conventional Ground Lease
Level of Service	- no sewers - existing watermains - narrow sidewalks - 2-month winter ferry service across Island Airport		- new sewers - new watermains - improved walkways ** - 12-month ferry service to include ice-breaking ferry in the winter * - 2-month winter ferry		- same as Option B plus new convenience store
Lots to be Appraised	One average lot each from Ward's and Algonquin Islands		Same as Option A		Same as Option A
Leasehold or Freehold	Leasehold on a capitalized basis		Leasehold on a capitalized basis		Leasehold on a capitalized basis
Effective Date	December 18, 1981	*	December 18, 1981	*	December 18, 1981
		**	December 31, 1986	**	December 31, 1986
Terms of Lease	3 yrs. x 8 = 24 yrs.		99 years		20 yrs. x 4
Escalation Clause	Rent review every 3 yrs.		Nil		Annual 4% compounded
Other Considerations	Must be used as principle residence		Must be used as principle residence		No requirement re. a principle residence
	Must have regard for Locational & Climatic Characteristics		Must have regard for Locational & Climatic Characteristics		Must have regard for Locational & Climatic Characteristics

* Amended by Council
** Amended by Council

APPENDIX "B"

1981 Values

APPRAISER	ISLAND	OPTION A BILL 191	OPTION B1 PROPOSED LEGISLATION	OPTION C1 CONVENTIONAL MARKET LEASE
MASHKE	Ward's	$47,000	$100,000	$100,000
	Algonquin	$63,000	$132,000	$132,000
LEPAGE	Ward's	$46,000	$ 81,000	$ 81,000
	Algonquin	$80,000	$135,000	$135,000
JONES	Ward's	$41,000	$ 56,000	$ 56,000
	Algonquin	$63,000	$ 83,000	$ 83,000
AVERAGE	Ward's	$44,666	$ 79,000	$ 79,000
	Algonquin	$68,666	$116,666	$116,666

APPENDIX "C"

1986 Values

APPRAISER	ISLAND	OPTION B2 PROPOSED LEGISLATION	OPTION C2 CONVENTIONAL MARKET LEASE
MASHKE	Ward's	$145,000	$145,000
	Algonquin	$190,000	$190,000
LEPAGE	Ward's	$142,000	$141,000
	Algonquin	$235,000	$235,000
JONES	Ward's	$139,000	$139,000
	Algonquin	$207,000	$207,000
AVERAGE	Ward's	$142,000	$141,666
	Algonquin	$210,666	$210,666

CITY OF TORONTO
LEGAL DEPARTMENT

C

Dennis Y. Perlin

April 23, 1987

To: The City of Toronto Executive Committee

Subject: Toronto Islands - Without Prejudice Interim Payments Toward Final Rental Solution

Origin: City Solicitor (c06exec87025:169)

Comments:

Section 215a of the Municipality of Metropolitan Toronto Act came into force December 18, 1981. Among other matters, this section provided for a deemed lease of the lands and structures comprising the residential community by the Metropolitan Corporation to the City and further leases by the City to individual occupants for successive 3-year terms until July 31, 2005. To date, no leases have been entered into.

Section 215a of the Act does not provide expressly for any interim lease or other arrangement. The previous City Solicitor advised City Council on several ocassions that to enter into an interim lease or other arrangement or accept the payment of funds before the execution of the leases could jeopardize the City's rights to exercise the writs of possession which were assigned to the City by section 215a.

Of course, I do not disagree with the legal opinion expressed by the previous City Solicitor in this regard. However, I am also aware that members of City Council are concerned that payments have been and are being made by the City to the Metropolitan Corporation on account of rent and no payments are being made by Island Residents to the City.

At the same time I understand that some if not all Island Residents, while not averse to paying something, do not want to enter into any leases under Bill 191 even pending a long term solution because of their complete disagreement with Bill 191.

Members of your Committee are aware that the Provincial Government is considering an amendment to Section 215a of the Metro Act, to replace Bill 191, however, I have not been advised as to when an

amending Bill might be presented to the legislature and what it might contain.

Thus, one method of obtaining monies from the Islanders might be to approach the Islanders for Interim Payments without prejudice to any final rental solution; without prejudice to any of the City's rights under Section 215a of the Metro Act and without prejudice to any final positions of the Islanders or the City on what the final rental solution might be BUT WITH credit to be given for any sums received against any amounts to be paid under any final rental solution whatever that happens to be, provided any final rental solution runs from a date on or prior to the commencement of any Interim Payments. For example, the discussion to date has foreseen any new legislation being back-dated to December 1981 in terms of any 99-year ground leases to be given to Island Residents. If that occurs, then full credit would be given for any Interim Payments. On the other hand, if the new legislation provides for ground leases to run from the date of the passage of the new legislation and that should occur after the commencement of Interim Payments, then with the Island Residents getting an additional 6 or 7 years of occupancy in terms of when the 99-year lease would commence, any Interim Payments received should then be for occupation up to the date of the commencement of the final rental solution.

The Commissioner of City Property has advised me that should Council wish to seek such Interim Payments from Island Residents, then he would recommend monthly payments based on the payment of 85 per cent of the amount (this is to exclude any amount related to the houses themselves) needed to cover the amount of payments being made by the City to the Metropolitan Corporation in accordance with the Atlin arbitration award: that is, $217.06 per month for each of the residential properties on Algonquin Island and $162.79 per month for residential properties on Wards Island both updated for 1987 to reflect any increased rental amount payable to Metro.

The form of arrangement with respect to such Interim Without Prejudice Payments could be the subject matter of discussion with TIRA, if your Committee authorizes the Commissioner of City Property and myself to approach TIRA in the first place.

RECOMMENDATIONS:

1. THAT the Island Residents be approached through TIRA to seek Interim Payments towards the final rental solution without prejudice to the City or the Islanders as to what that final

rental solution will be, without prejudice to any position the City or the Islanders may wish to take as to what any final rental solution should be and without prejudice to the City's rights under Section 215a of the existing legislation.

2. THAT the Without Prejudice Interim Payments requested be monthly payments in the amounts suggested herein by the Commissioner of City Property with credit for all payments received to be given against any amounts to be paid under any final rental solution provided any final rental solution runs from a date on or prior to the commencement of the Interim Payments.

City Solicitor

DYP:sy

CITY OF TORONTO
PROPERTY DEPARTMENT

D

APR 27 3 01 PM '87
CITY CLERK'S OFFICE
SECRETARIAT SECTION

April 16, 1987
H.E. Hodowany

To: The City of Toronto Executive Committee

Subject: Renewal of Lease between the City and Metro for the Toronto Islands.

Origin: Commissioner of City Property (c33exec87062:0006)

Comments:

Bill 191, an Act to amend the Municipality of Metropolitan Toronto Act, was given Royal Assent on December 18, 1981. This Act deems the Municipality of Metropolitan Toronto to have leased the "lands and structures, avenues, and vacant lands on Algonquin and Ward's Islands to the City of Toronto from December 18, 1981, to July 31, 2005".

The rents to be paid by the City of Toronto to the Municipality of Metropolitan Toronto shall be market value rents calculated and agreed upon initially for a five-year period beginning on the day that this section of the Act came into force. This initial period commenced on December 18, 1981, and expired on December 17, 1986.

The market value rents could not be agreed upon and in accordance with the provisions of the Act, the annual rent for the residential component for the first five-year term was set by an arbitrator at $655,000.00 per annum, for the term December 18, 1981, to December 17, 1986.

Rent for Lease Renewal Term:

Bill 191, Clause 2 (3) addressed the rental to be paid after the initial five-year (5) term as follows:"....shall be recalculated and agreed upon at five-year intervals thereafter....". The arbitration provisions utilized to set the rental rate during the initial term also apply to the renewal periods.

I have received an offer from the Commissioner of Metropolitan Toronto Parks and Property Department for the renewal of the five-year rental term commencing December 18, 1986 for the residential component of the Islands lease, as follows:

(a) For the period from December 18, 1986 to December 17, 1987, the rental will be $681,200.00, based on a 4% increase applied to the base rent of $655,000.00.

(b) For each of the four subsequent years, the annual rent is to be the amount equivalent to the previous year's rent, adjusted at a rate equivalent to the rate specified in the previous year's rent review legislation.

(c) That the rent becomes due and payable at the beginning of each lease year and further, that interest at the prevailing bank rate be charged on any and all rental arrears.

This offer has received the approval of the Metropolitan Toronto Council on November 14, 1986.

I am of the opinion that this offer received from the Commissioner of Metropolitan Toronto Parks and Property Department is fair and reasonable, subject to any changes that may be required as a result of any new legislation.

Recommendations:

Subject to any changes by way of new legislation, I recommend that:

1. The rent for the second 5-year term, commencing December 18, 1986, be as outlined in this report.

2. Sufficient funds are available in the Toronto Islands Reserve Accounts Nos. 502-016 & 502-017 for the 1st year's rent, from December 18, 1986 to December 17, 1987, inclusive.

3. That funds in the amount of $708,448.00 be included in the 1987 at-large Budget for payment of the 2nd year's rent, due December 18, 1987.

R W a Thwaites

Commissioner of City Property

RSW-te

CITY OF TORONTO
PROPERTY DEPARTMENT

E

APR 27 3 01 PM '87
CITY CLERK'S OFFICE
SECRETARIAT SECTION

April 16, 1987
H.E. Hodowany

To: The City of Toronto Executive Committee

Subject: Toronto Islands - Interest owing to Metro for period December 18, 1981 to December 17, 1986.

Origin: Commissioner of City Property (c33exec87060:0006)

Comments:

In September, 1986, I received an invoice from the Commissioner of Metropolitan Parks and Property in the amount of approximately $4.4 million. This invoice covered five years' rent at $655,000.00 per annum and approximately $1.1 million in interest.

Further negotiations with the Metropolitan Commissioner resulted in a change in their method of calculation of interest and, in February, 1987, I received a computer printout from Metro showing interest owing to December 17, 1986 in the amount of $692,352.62. This figure is based on annual payments in arrears. The interest rate applied is a floating rate based on Metro's cost of borrowing.

I have recently met with the Metropolitan Commissioner and a further refinement has been made to the method of calculation of interest. We have agreed to use an interest rate of 6%, as contained in the Expropriations Act, from December 18, 1981 to April 15, 1985. From April 16, 1985 (the date of the Atlin Arbitration Award) to December 17, 1986, the interest rate will be a floating rate based on Metro's cost of borrowing. This method of calculation results in an amount of $589,347.12 payable to Metro as of December 17, 1986.

The City Solicitor advises that the City would likely be liable for interest from April 16, 1985 to the date of payment on outstanding arrears of rent <u>not</u> paid in advance at the judgement interest rate of 13% which would amount to $696,644.56. However, this is not free from doubt and, if arbitrated, the City could end up paying more than the amount of $589,347.12 plus the costs of arbitration.

I am of the opinion that the above method of determining interest is reasonable, and that a settlement on these terms would be advisable.

Funds are available in Toronto Islands Land Rental Account No. 502-016.

Recommendation:

That the Commissioner of City Property in consultation with the City Solicitor be authorized to implement a settlement, as described above, and that the City Treasurer be authorized to make payment of $589,347.12 to the Municipality of Metropolitan Toronto to cover the cost of interest on rent arrears, for the period December 18, 1981 to December 17, 1986.

Commissioner of City Property

RSW-te

CITY OF TORONTO
PROPERTY DEPARTMENT

F

APR 27 3 01 PM '87
CITY CLERK'S OFFICE
SECRETARIAT SECTION

April 16, 1987
H.E. Hodowany

To: The City of Toronto Executive Committee

Subject: Toronto Islands - Rental Arrears owing prior to Dec 18/81

Origin: Commissioner of City Property (c33exec87061:0006)

Comments:

On September 3, 1986, I received a statement from the Commissioner of Metropolitan Toronto Parks and Property advising that Islands residents owe the Municipality of Metropolitan Toronto rent and interest for arrears prior to December 18, 1981 in the amount of $100,060.00

Clause 10 (a)(i) of Subsection 215 (a) of the Municipality of Metropolitan Toronto Act, (Bill 191) deals with this matter and states:

> "As a condition of the execution of a lease under subsection (8) or (13), the occupant shall pay,
>
> (i) to the Metropolitan Corporation all taxes and public utilities rates paid by the Metropolitan Corporation to the City of Toronto before the day this Act comes into force, and all outstanding arrears of rent and occupation rent. "

The City of Toronto is not responsible for payment of this money to Metro. However, Bill 191 requires that all outstanding arrears of rent be paid as a condition of the execution of a lease with the City. Metro and City staff have established a procedure whereby every lessee will be required to obtain a statement showing outstanding arrears from the Municipality of Metropolitan Toronto prior to execution of a lease by the City. The aforesaid statement has been returned to the Municipality of Metropolitan Toronto.

Recommendations:

1. That the above procedure for the pre-1981 arrears be adopted.

2. That the City Clerk be requested to forward this clause to the Metropolitan Clerk.

Commissioner of City Property

RSW-te

G

CITY OF TORONTO
PROPERTY DEPARTMENT

APR 2[illegible] 3 01 PM '87

April 16, 1987
H.E. Hodowany

CITY [illegible] OFFICE
SE[illegible] SECTION

To: The City of Toronto Executive Committee

Subject: Toronto Islands - Rent for 2 Clubhouse Buildings.

Origin: Commissioner of City Property (c33exec87063:0006)

Comments:

Negotiations have taken place with the Commissioner of Metropolitan Toronto Parks and Property with respect to the amount of rent the City of Toronto should pay Metro for the two clubhouse buildings. To date, no agreement has been reached.

Section 215b of the Metro Act provides for a deemed lease of the two clubhouse buildings from the Metropolitan Corporation to the City from December 18, 1981 until July 31, 2005 for recreational and social purposes at market value rent to be agreed upon or set by arbitration. The City is required to offer leases to the Algonquin Island Residents Association at a rent to be agreed upon or failing an agreement, to be determined by arbitration having regard to the rent payable by the City to the Metropolitan Corporation and the City's other costs related to the clubhouse buildings.

The Municipality of Metropolitan Toronto is seeking market rents, with a 1986 value of $16,922.00 for the Algonquin Island clubhouse and $6,818.00 for the Ward's Island clubhouse.

A review of the history of these two buildings reveals that when the City of Toronto was in possession of the lands, the clubhouses were rented at $25.00 per annum for Ward's (commencing April, 1938) and $75.00 per annum for Algonquin's (commencing January, 1951).

When the lands were vested to Metro in January, 1956, Metro kept the rent for the Ward's clubhouse at $25.00 per annum on the next renewal and reduced the annual rent for the Algonquin clubhouse to $30.00, effective January, 1961. The respective Residents' Associations have always been responsible for payment of realty taxes and any repairs/maintenance costs.

Based on the above, it is my position that the rent for these two buildings be set at $75.00 per annum for the Algonquin Island clubhouse and $50.00 per annum for the Ward's Island clubhouse.

The rent for the clubhouses was not included in the earlier arbitration proceedings.

Recommendations:

1. That City Council approve the rental rates for the two clubhouse buildings as outlined above.

2. That the City Clerk be authorized to advise the Municipality of Metropolitan Toronto of the City's position in this matter.

R. Watkiss

Commissioner of City Property

RSW-te